

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRANCH BANKING AND TRUST COMPANY,

Plaintiff,

V.

REGENA HOMES, LLC; YOEL INY;
NOAM SCHWARTZ Y & T INY FAMILY
TRUST dated June 8, 1994; NOAM
SCHWARTZ TRUST dated August 19, 1999;
DMSI, LLC; AND GREAT AMERICAN
CAPITAL.

Defendants.

Case No. 2:12-cv-00451-APG-GWF

ORDER

During the May 12, 2015 hearing on the fair market value of the subject property, defendants argued that entry of judgment at this time is premature because two of their affirmative defenses (failure to mitigate damages and breach of the covenant of good faith) remain unresolved. Those defenses flow from the plaintiff's alleged breach of a work-out agreement and its alleged delay in foreclosing on the subject property. However, those defenses were previously resolved against defendants. Defendants asserted them in their opposition to plaintiff's motion for summary judgment. (Dkt. #86 at 20.) Judge Jones granted plaintiff summary judgment, thereby rejecting those defenses. (Dkt. #110.)

The parties subsequently argued this same issue in connection with plaintiff's motion in limine number 1. (Dkt. ##124, 134, 143.) I granted that motion, again rejecting defendants' argument. (Dkt. #158.) Thus, defendants' affirmative defenses have been adjudicated, and there is no need for further briefing on them.

DATED this 12th day of May, 2015.


ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE